

REMARKS

In the Office Action, claims 1-7, 9-23, 25, and 26 were rejected. By the present Response, claims 1, 9, 17, and 25 are amended. Upon entry of the amendments, claims 1-7, 9-23, and 25-26 will remain pending in the present patent application. Reconsideration and allowance of all pending claims are requested.

Rejections Under 35 U.S.C. § 112, Second Paragraph

The Examiner rejected claims 2-7, 9-15, 18-23, and 26 as indefinite under 35 U.S.C. § 112, second paragraph. In particular, the Examiner rejected claims 2, 10, 16, and 18 for reciting “a set of concurrently acquired phase data and the frequency content of the set of projection data.” Office Action, p. 2. In addition, the Examiner rejected claim 9 based on the recitation of the term “slowly”.

With regard to claim 9, the claim has been amended to be consistent with amendments made in this and previous communications. Among the amendments made is the removal of the term “slowly”. Therefore, in view of this amendment, withdrawal of the present rejection is respectfully requested.

With regard to claims 2, 10, 16, and 18, the Applicants note that 35 U.S.C. § 112, second paragraph, requires that an applicant’s claims particularly point out and distinctly claim the subject matter which an applicant regards as his invention. To satisfy this threshold, claim recitations must allow one skilled in the art to understand the bounds of the claim when read in light of the specification. *See Exxon Research and Engineering Co. v United States*, 60 U.S.P.Q. 2d 1272, 1276 (Fed. Cir. 2001). The Federal Circuit has made clear that “[i]f the meaning of a claim is discernable even though the task may be formidable and the conclusions may be one over which reasonable persons will disagree,” the claim will be viewed sufficiently clear to avoid indefiniteness. *See id.* Thus, if the meaning of a claimed term is discernable when read in light of the specification, then that

claimed term cannot be held as indefinite under Section 112, second paragraph. In view of this binding case law, the Applicants respectfully traverse the present rejection.

In particular, the Applicants note that the terms “frequency content” and “phase data” are described in the specification, with examples being provided, such that one of ordinary skill in the art with the benefit of the specification would be able to discern the respective meanings of these terms. *See* Application, p. 13, lines 1-14. As such, these terms are not indefinite in view of the appropriate tests outlined above. In his comments, the Examiner states the importance of not reading limitations from the specification into the claims. However, as the terms in issue are currently *recited* in the claims, the Applicants believe that the Examiner’s present uncertainty is unfounded. Indeed, as the Examiner will appreciate, “[c]laims are not to be read in a vacuum, and limitations therein are to be interpreted in light of the specification in giving them their ‘broadest reasonable interpretations’.” *In re Marosi*, 218 U.S.P.Q. 289, 292 (Fed. Cir. 1983). Thus, this is not a question of importing recitations otherwise absent from a claim into the claim from the specification. Instead, the recitations in questions are already present in the claims and should merely be given their reasonable interpretation in view of the specification. Withdrawal of the present rejection of claims 2, 10, 16, and 18 (and those claims depending therefrom) under 35 U.S.C. § 112, second paragraph is, therefore, respectfully requested.

Rejections Under 35 U.S.C. § 102

The Examiner rejected claims 1, 17, and 25 under 35 U.S.C. § 102(b) as anticipated in view of U.S. Patent No. 6,233,308 (the Hsieh reference). In addition, the Examiner rejected claims 17 and 25 under 35 U.S.C. § 102(b) as anticipated in view of U.S. Patent No. 5,175,754 (the Casey reference). A *prima facie* case of anticipation under 35 U.S.C. § 102 requires a showing that each limitation of a claim is found in a

single reference, practice or device. *In re Donohue*, 226 U.S.P.Q. 619, 621 (Fed. Cir. 1985).

With regard to the Hsieh reference, the Applicants respectfully note that claims 1, 17, and 25 each recite a distributed X-ray source. Contrary to the Examiner's assertion, the X-ray source 14 of the Hsieh reference does not appear to be a distributed X-ray source, as discussed in the specification of the application. *See* Application, p. 5, lines 16-19, 30-31, p. 9, lines 2-4, and p. 11, line 10 through p. 12, line 29. Nevertheless, in an effort to advance prosecution, the Applicants have amended claims 1, 17, and 25 to recite that the distributed X-ray source comprises a plurality of addressable X-ray focal spots. Support for this amendment can be found in the Application at p. 5, lines 16-19 and throughout, such as at Fig. 5 and the associated text. The Hsieh reference does not appear to disclose a distributed X-ray source comprised of such a plurality of addressable X-ray focal spots and, therefore, no *prima facie* case of anticipation is believed to exist with regard to claims 1, 17, or 25. Furthermore, if the Examiner wishes to maintain the present rejection the Applicants respectfully request that the Examiner provide specific citations to the Hsieh reference disclosing the distributed X-ray source as presently recited. Absent such a showing, the Applicants respectfully request withdrawal of the rejection of claims 1, 17, and 25 and allowance of these claims.

With regard to the Casey reference, the Applicants respectfully note that the Casey reference also appears to be devoid of any disclosure of a distributed X-ray source comprised of a plurality of addressable X-ray focal spots. At best, the Casey reference discusses an X-ray source 12 which projects X-rays from a single focal spot, where the focal spot "wobbles". Casey, col. 4, lines 34-38, 63-68. Therefore, no *prima facie* case of anticipation is believed to exist with regard to claims 17 and 25 in view of Casey. If the Examiner wishes to maintain the present rejection the Applicants respectfully request that the Examiner provide specific citations to the Casey reference disclosing the distributed X-

ray source as presently recited. Absent such a showing, the Applicants respectfully request withdrawal of the rejection of claims 17 and 25 and allowance of these claims.

Rejections Under 35 U.S.C. § 103

The Examiner rejected independent claim 1 under 35 U.S.C. § 103(a) as obvious in view of the Casey reference. In addition, the Examiner rejected claim 9 as obvious in view of the Hsieh reference and separately in view of the Casey reference. The burden of establishing a *prima facie* case of obviousness falls on the Examiner. *Ex parte Wolters and Kuypers*, 214 U.S.P.Q. 735 (PTO Bd. App. 1979). To establish a *prima facie* case, the Examiner must not only show that the cited references include *all* of the claimed elements, but also a convincing line of reason as to why one of ordinary skill in the art would have found the claimed invention to have been obvious in light of the teachings of the references. *Ex parte Clapp*, 227 U.S.P.Q. 972 (B.P.A.I. 1985).

With regard to claim 1, the Applicants respectfully note that claim 1, as amended, recites a distributed X-ray source comprising a plurality of addressable X-ray focal spots. As noted above, this limitation is believed to be absent from the Casey reference. Therefore, the Casey reference does not disclose all of the recited features of claim 1, as amended and no *prima facie* case of obviousness is believed to exist with regard to claim 1. Furthermore, the Applicants can identify no teaching, suggestion, or motivation in the Casey reference which would direct one of ordinary skill in the art to the recited subject matter. In view of this deficiency, the rejection of claim 1 as obvious in view of the Casey reference is, therefore, respectfully requested.

With regard to claim 9, the Applicants respectfully note that claim 9, as amended, also recites a distributed X-ray source comprising a plurality of addressable X-ray focal spots. As noted above, this limitation is believed to be absent from both the Hsieh and the Casey references. Therefore, neither the Hsieh reference nor the Casey reference

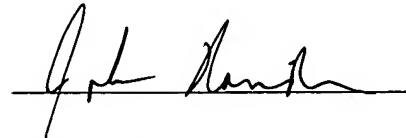
discloses all of the recited features of claim 9, as amended and no *prima facie* case of obviousness is believed to exist with regard to claim 9. Furthermore, the Applicants can identify no teaching, suggestion, or motivation in either the Hsieh reference or the Casey reference which would direct one of ordinary skill in the art to the recited subject matter. In view of these deficiencies, the separate rejections of claim 9 as obvious in view of the Hsieh reference and in view of the Casey reference are, therefore, respectfully requested.

Conclusion

In view of the remarks and amendments set forth above, the Applicants respectfully request allowance of the pending claims. If the Examiner believes that a telephonic interview will help speed this application toward issuance, the Examiner is invited to contact the undersigned at the telephone number listed below.

Respectfully submitted,

Date: September 30, 2005

A handwritten signature in black ink, appearing to read "John M. Rariden", is written over a horizontal line.

John M. Rariden
Reg. No. 54,388
FLETCHER YODER
P.O. Box 692289
Houston, TX 77269-2289
(281) 970-4545